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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,700	02/07/2006	Volker Von Holt	10191/3804	1596
26646 7590 01/25/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
BURCH, MELODY M				
ART UNIT		PAPER NUMBER		
3683				
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01/25/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,700

Applicant(s)

VON HOLT ET AL.

Examiner

Melody M. Burch

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3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 2/16/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because *in figures 2B and 3B the x-axis of each graph is not labeled*. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. In addition to Replacement Sheets containing the corrected drawing figure(s), applicant is required to submit a marked-up copy of each Replacement Sheet including annotations indicating the changes made to the previous version. The marked-up copy must be clearly labeled as "Annotated Sheets" and must be presented in the amendment or remarks section that explains the change(s) to the drawings. See 37

CFR 1.121(d)(1). Failure to timely submit the proposed drawing and marked-up copy will result in the abandonment of the application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claim 9. With claim 9, as best understood, two options are recited - increasing a braking force during the preliminary warning braking until either "at least one wheel reaches a slip limit" or until "one of the braking force and a correlated state variable attains a defined maximum value." The second limitation in the claim, however, combines terms from each of the two separate options. For example, the phrase "when a maximum value is attained without a wheel having reached the slip limit" includes the "maximum value" limitation from the second option and the "slip limit" limitation from the first option. It is unclear how the terms from the distinct options can be combined when the first part of the claim suggests that only one of the options is applicable.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 7, 10, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6238021 to Sugimoto.

Sugimoto describes a method for automatically initiating an emergency braking sequence comprising: performing a preliminary warning braking in a motor vehicle, determining an achievable vehicle deceleration during the preliminary warning braking, and varying a time of initiating an emergency braking as a function of the determined achievable vehicle deceleration as disclosed in col. 8 lines 12-49.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4048613 to Ito et al. in view of DE-4310354 (DE'354).

Ito et al. disclose a method for automatically initiating an emergency braking sequence comprising: performing a preliminary warning braking in a motor vehicle as disclosed in col. 4 lines 10-13.

Ito et al. disclose the limitation of later initiating an emergency braking as disclosed in col. 4 lines 11-13, but lack the limitation of determining an achievable

vehicle deceleration during the preliminary warning braking, and varying a time of initiating the emergency braking as a function of the determined achievable vehicle deceleration.

DE'354 teaches in the admitted prior art section of the instant specification pg. 1 line 19 – pg. 2 line 3 the use of determining information such as the coefficient of friction of the roadway on which the vehicle travels during a warning braking and using the information to adjust a setpoint distance based on the determined brakability and stopping distance of the vehicle which is a function of the achievable vehicle deceleration.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method for automatically initiating an emergency braking sequence of Ito et al. to have used determined information gained during the warning braking to vary the time of initiating the subsequent emergency braking, as taught by DE'354, in order to increase driving safety according to the particular road conditions.

9. Claims 8, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4048613 to Ito et al. in view of DE-4310354 (DE'354) as applied to claim 7 above, and further in view of US Patent to Siegel.

Ito et al., as modified, describe the invention as set forth above but lack the limitation of decelerating at least one wheel of the motor vehicle to a slip limit during preliminary warning braking.

Siegel teaches in col. 1 lines 59-62 the method of decelerating at least one wheel of the motor vehicle to a slip limit during the preliminary warning braking (or normal braking as opposed to emergency braking)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Ito et al., as modified, to have decelerated the at least one wheel (a rear wheel, for example) to a slip limit, as taught by Siegel, in order to provide a means of dynamically controlling the vehicle to force the front wheels to lock before the rear wheels. With claim 9, as best understood, two options are recited - increasing a braking force during the preliminary warning braking until either "at least one wheel reaches a slip limit" or until "one of the braking force and a correlated state variable attains a defined maximum value." Examiner notes that the prior art of record reads on the first recited option. See the 112 rejection above regarding claim 9.

10. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugimoto in view of US Patent to Siegel.

Sugimoto describes the invention as set forth above but lacks the limitation of decelerating at least one wheel of the motor vehicle to a slip limit during preliminary warning braking.

Siegel teaches in col. 1 lines 59-62 the method of decelerating at least one wheel of the motor vehicle to a slip limit during the preliminary warning braking (or normal braking as opposed to emergency braking)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Sugimoto to have decelerated the at least one wheel (a rear wheel, for example) to a slip limit, as taught by Siegel, in order to provide a means of dynamically controlling the vehicle to force the front wheels to lock before the rear wheels. See the 112 rejection above regarding claim 9.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 4833469 to David, US Patent Application 2006/0097570 to Doerr et al., and foreign patent JP-10338111 teach the use of the triggering of a warning operation follow by automatic emergency braking with the warning operation being in the form of sound and or light.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb
January 21, 2008

/Melody M. Burch/

Primary Examiner, Art Unit 3683